



Dan Nelson

Kevin P. McCulloch

October 4, 2011

VIA FACSIMILE TO (212) 805-4258

Hon. Debra Freeman
United States District Court
Southern District of New York
Daniel P. Moynihan Courthouse
500 Pearl Street
New York, NY 10007

RE: *Cole v. John Wiley & Sons, Inc.*, No. 11-CV-2090-DCF

Dear Judge Freeman:

I am counsel for Plaintiff Brandon Cole ("Plaintiff") in the above-referenced action and write pursuant to Fed. R. Civ. P. 37(a) to request that the Court compel Defendant John Wiley & Sons, Inc. ("Defendant") to comply with discovery requested under Rule 34. Plaintiff's counsel certify that we met and conferred in good faith with counsel for Defendant in an attempt to resolve this matter without court action, but Defendant's counsel refuses to withdraw its baseless objections and comply with discovery.

On May 17, 2011, Plaintiff served his First Requests for Production of Documents. Among other things, Plaintiff requested:

9. Documents regarding Defendant's requests for permission to use third-party photographs in the publications identified in the Complaint.
10. Copies of all communications sent to or received from any person or entity pertaining to the use of that person's or entity's photographs in the publications identified in the Complaint.
16. Communications and other documents exchanged between Defendant and any other person or entity whose photographs appear in the 2010 and 2011 editions of the Costa Rica publication by Frommer's, and any ancillary publications or materials, including any Kindle eBooks.
22. All documents, including internal Wiley correspondence, documents, and e-mails regarding, concerning, or pertaining to Wiley's use of third-party imagery prior to the license date.

SO ORDERED:

DATE: 11/3/11

DEBRA FREEMAN
UNITED STATES MAGISTRATE JUDGE